



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARGARET RHEE-KARN,

Plaintiff,

- against -

SUSAN CHANA LASK, ESQ., A/K/A SUSAN
LUSK, A/K/A SUSAN LESK,

Defendant.
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15-CV-9946 (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order addresses Defendant's Trial Exhibit 6, which was discussed at the final pre-trial conference and is the subject of the parties' letters at Dkts. 406-408. At both the pre-trial conference and in his August 7, 2023 letter (Dkt. 407), Plaintiff's counsel makes purely speculative allegations that email correspondence – by which the documents at Exhibit 6 were transmitted to his predecessor during discovery – was fabricated by Defendant. Plaintiff's counsel has not provided even a scintilla of evidence to support those allegations. Plaintiff's counsel nevertheless seeks to file a motion on September 30, 2023 to strike the documents at issue based on his fabrication theory. There is no good faith basis to proceed with such a motion. Moreover, the application seeks discovery on discovery, which is generally frowned upon. Such discovery here will be a particularly wasteful distraction and is disproportional to the needs of the case. The application is DENIED.

However, the Court will allow Plaintiff to depose Defendant about the contents of Exhibit 6 inasmuch as Plaintiff's counsel genuinely seemed to have no familiarity with or knowledge about the document until the eve of trial. The deposition may be conducted

remotely and shall be limited to 2 hours. Plaintiff may not ask questions at the deposition regarding when, how, if, or any other aspect of the extent to which Exhibit 6 was produced during discovery. The deposition must be completed by October 15, 2023.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: August 9, 2023
New York, New York

Copies transmitted this date to all counsel of record.